

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT CALIFORNIA
WESTERN DIVISION

United States Commodity
Futures Trading Commission,
Plaintiff,
vs.
People's Alternative, Inc.,
Jaime Gallardo, Karl Ochoa, and
Maria Dolores Iracheta,
Defendants.

Case No: **CV 10 7013**

Judge **GAF (EX)**

~~PROPOSED~~ EX PARTE
STATUTORY
RESTRAINING ORDER

Time: _____

Date: September ____, 2010

10 SEP 21 AM 10:41
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FRANCISCO
CALIFORNIA
B

LOGGED

This Court having read Plaintiff's Complaint, Motion for a *Ex Parte* Statutory Restraining Order, Memorandum of Points and Authorities and the supporting declarations, exhibits and attachments thereto;

THE COURT FINDS:

1. The Court has jurisdiction over the subject matter.
2. Section 6c(a) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. § 13a-1 (2006), permits this Court to enter an *ex parte* statutory restraining order.
3. It appears to the satisfaction of the Court that there is good cause to believe that Defendants have engaged, are engaging in and are about to engage in violations of Sections 4b(a)(1)(A) and (C) and 4b(a)(2)(A) and (C) of the Act, as

1 amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-
2 246, Title XIII (subtitled "CFTC Reauthorization Act of 2008" ("CRA")),
3 §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at
4 7 U.S.C. §§ 6b(a)(1)(A) and (C) and 6b(a)(2)(A) and (C), and Section 4o(1)(A)
5 and (B) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B) (2006). There is good cause to
6 also believe that Defendants have engaged, are engaging in and are about to
7 engage in violations of Sections 4k(2) and 4m(1) of the Act, 7 U.S.C. §§ 6k(2) and
8 6m(1) and Commission Regulations 1.31 and 4.23, 17 C.F.R. §§ 1.31 and 4.23
9 (2010).

10
11
12 4. There is good cause to believe further that pool participants and
13 prospective pool participants may be cheated and defrauded and that immediate
14 and irreparable damage to the Court's ability to grant effective final relief for pool
15 participants in the form of monetary redress will occur from the dissipation of
16 pool participants' assets and destruction of records unless the Defendants are
17 immediately restrained and enjoined by Order of this Court.

18
19
20 5. Consequently, Court is satisfied that this is a proper case for granting
21 an *ex parte* statutory restraining order to preserve the status quo and to protect
22 public pool participants and prospective pool participants from further deceit, loss
23 or damage, and enable the Commission to fulfill its statutory duties.
24
25
26

1 receive notice of this Order by personal service or otherwise, including facsimile,
2 electronic mail, Federal Express and United Parcel Service, are restrained and
3 enjoined from directly or indirectly refusing to make available for inspection and
4 copying by the Commission any books and records, documents or other property
5 of Defendants, wherever located, that relate to the Defendants' business practices
6 or business or personal finances.
7

8 **III. ASSET FREEZE**

9
10 **IT IS FURTHER ORDERED** that Defendants, and their agents, servants,
11 employees, successors, assigns, attorneys and all persons insofar as they are acting
12 in active concert or participation with them, who receive notice of this Order by
13 personal service or otherwise, including facsimile, electronic mail, Federal
14 Express and United Parcel Service or other commercial overnight service, from
15 directly or indirectly withdrawing, transferring, removing, dissipating, selling,
16 alienating, liquidating, encumbering, pledging, leasing, loaning, assigning,
17 concealing, converting, or otherwise disposing of any cash, cashier's checks,
18 funds, assets or other property of, or within the custody, control, or actual or
19 constructive possession of Defendants including, but not limited to, all funds,
20 personal property, money or securities held in Defendants' name, all funds on
21 deposit in any safety deposit box, financial institution, futures commission
22 merchant, insurance agency, pension plan benefits provider, custodian, brokerage
23
24
25
26

1 firm, bank or savings and loan account held by, under the actual or constructive
2 control, or in the name of Defendants, all funds or property of Defendants'
3 customers, wherever located, including funds, property or assets held outside the
4 United States, except as ordered by the Court, whether held in the name of the
5 Defendants, individually or jointly, or any other entity owned or controlled by
6 Defendants, or held on behalf of the Defendants, at any time since October 1,
7 2008. The assets affected by this Paragraph shall include both existing assets and
8
9 assets acquired after the effective date of this Order.
10

11 **IV. BOND NOT REQUIRED OF PLAINTIFF**

12 **IT IS FURTHER ORDERED** that, pursuant to Section 6c(b) of the Act,
13 7 U.S.C. § 13a-1, no bond need be posted by the Plaintiff CFTC, which is an agency
14 of the United States of America.
15

16 **V. DIRECTIVES TO FINANCIAL INSTITUTIONS AND OTHERS**

17 **IT IS FURTHER ORDERED**, pending further Order of this Court, that
18 any bank, financial or brokerage institution, futures commission merchant,
19 business entity, or person that holds, controls, or maintains custody of any account
20 or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of
21 the Defendants, or has held, controlled, or maintained custody of any account or
22 asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the
23 Defendant at any time since October 1, 2008, and who receives notice of this
24
25
26

1 Order by personal service or otherwise, including facsimile, electronic mail,
2 Federal Express and United Parcel Service, shall:

- 3 A. Prohibit Defendants and any other person from withdrawing,
4 removing, assigning, transferring, pledging, encumbering, disbursing,
5 dissipating, converting, selling or otherwise disposing of any such
6 asset except as directed by further order of the Court;
- 7 B. Deny Defendants and all other person(s) access to any safe deposit
8 box that is: (a) titled in the name of Defendants, either individually or
9 jointly; or (b) otherwise subject to access by the Defendants;
- 10 C. Provide counsel for the Commission, within five (5) business
11 days of receiving a copy of this Order, a statement setting forth:
12 (a) the identification number of each and every such account or
13 asset titled in the name, individually or jointly, of the
14 Defendants, or owned, controlled, managed, or held by, on
15 behalf of, or for the benefit of the Defendants: (b) the balance of
16 each such account, or a description of the nature and value of
17 such asset as of the close of business on the day on which this
18 Order is served, and, if the account or other asset has been
19 closed or removed, the date closed or removed, the total funds
20 removed in order to close the account, and the name of the
21 person or entity to whom such account or other asset was
22 remitted; and (c) the identification of any safe deposit box that
23 is either titled in the name, individually or jointly, of the
24 Defendants or is otherwise subject to access by the Defendants;
25 and
- 26 D. Upon request by the Commission, promptly provide the
Commission with copies of all records or other documentation
pertaining to such account or asset, including, but not limited
to, originals or copies of account applications, account
statements, signature cards, checks, drafts, deposit tickets,
transfers to and from the accounts, all other debit and credit
instruments or slips, currency transaction reports, 1099 forms,
and safe deposit box logs.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

VI. SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail, Federal Express and United Parcel Service, upon any financial institution, bank, futures commission merchant, brokerage firm or other entity or person that may have possession, custody, or control of any documents or assets of the Defendants, or that may be subject to any provision of this Order. William Janulis, Barry Blankfield, Ken Hampton and John Wilson, all employees of the CFTC, are hereby specially appointed to serve process, including this Order and all other papers in this cause.

IT IS FURTHER ORDERED that the United States Marshals Service is directed to assist the Commission with service of process, including the summons and complaint, and all other papers in this case as well and assist the Commission with taking control and custody of the assets, books and records, documents and business premises of the Defendants.

VII. SERVICE ON THE COMMISSION

IT IS FURTHER ORDERED that the Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Plaintiff Commission by delivering a copy to Barry Blankfield, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

VIII. COURT MAINTAINS JURISDICTION

IT IS FURTHER ORDERED that this *Ex Parte* Statutory Restraining Order shall remain in full force and effect until further Order of this Court, upon application, notice and an opportunity to be heard, and that this Court retains jurisdiction of this matter for all purposes.

IX. FURTHER COURT HEARINGS

IT IS FURTHER ORDERED that this matter is set for a status hearing on

IT IS FURTHER ORDERED that Plaintiff's Motion for a Preliminary

Injunction is set for hearing on

Sept 27 ~~September~~ October 8, 2010 at 9:30 AM.
Briefs to be presented under the schedule established in this Court's Premit order of 9/27/10.

IT IS SO ORDERED.

Signed at 11:00 AM o'clock am/pm on the 27th day of September, 2010

Andy Feltz
UNITED STATES DISTRICT JUDGE